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4 Telephone: 856-429-8334  
5 Attorney of Record: Amy Bennecoff (AB0891)  
6 Attorney for Plaintiff

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

HELEN BAKER, )  
Plaintiff, )  
vs. ) CIVIL ACTION NO.  
ACCOUNTS RECEIVABLES )  
MANAGEMENT, INC. )  
Defendant )

COMPLAINT

NOW COMES the Plaintiff, HELEN BAKER, ("Plaintiff") and her attorneys, Kimmel & Silverman, P.C., and for her Complaint against the Defendant ACCOUNTS RECEIVABLES MANAGEMENT, INC. ("Defendant").

Plaintiff alleges and states as follows:

I. PRELIMINARY STATEMENT

1. This is an action for damages brought by an individual consumer for Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices. Plaintiff further alleges a claim for invasion of privacy ancillary to Defendants' collection efforts.

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2 **II. JURISDICTION AND VENUE**

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4 2. Jurisdiction of this Court arises under 15 U.S.C. §1692k(d) and 28 U.S.C.  
5 §1331. Venue lies properly in this district pursuant to 28 U.S.C. §1391(b), as a substantial part  
6 of the events and omissions giving rise to the claim occurred within this District.

7 **III. PARTIES**

8

9 3. Plaintiff is an adult individual who resides in Hazard, Kentucky, 41701.  
10 4. Plaintiff is a “consumer” as defined in 15 U.S.C. § 1692(a)(3), as he is a natural  
11 person allegedly obligated to pay a debt.

12 5. At all relevant times, Defendant acted as a “debt collector” within the meaning  
13 of 15 U.S.C. § 1692(a)(6), in that they held themselves out to be a company collecting a  
14 consumer debt allegedly owed to another.

15 6. Defendant is a national debt collection company with its registered address at  
16 155 Mid Atlantic Parkway, Thorofare, New Jersey 08086.

17 7. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6)  
18 trying to collect a “debt” as defined by 15 U.S.C. §1692(a)(5).

19 8. Defendant acted through their agents, employees, officers, members, directors,  
20 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

21 **IV. BACKGROUND ON THE FDCPA**

22

23 9. The Fair Debt Collection Practices Act (“FDCPA”) is a comprehensive statute  
24 which prohibits a catalog of activities in connection with the collection of debts by third parties.  
25 See 15 U.S.C. §1692 et seq. The FDCPA imposes civil liability on any person or entity that  
26 violates its provisions, and establishes general standards of debt collector conduct, defines  
27

1 abuse, and provides for specific consumer rights. 15 U.S.C. §1692(k). The operative  
2 provisions of the FDCPA declare certain rights to be provided to or claimed by debtors, forbid  
3 deceitful and misleading practices, prohibit harassing and abusive tactics, and proscribe unfair  
4 or unconscionable conduct, both generally and in a specific list of disapproved practices.  
5

6 10. In particular, the FDCPA broadly enumerates several practices considered  
7 contrary to its stated purpose and forbids debt collectors from taking such action. The  
8 substantive heart of the FDCPA lies in three broad prohibitions. First, a “debt collector may  
9 not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any  
10 person in connection with the collection of a debt.” 15 U.S.C. § 1692(d). Second, a “debt  
11 collector may not use any false, deceptive, or misleading representation or means in connection  
12 with the collection of any debt.” 15 U.S.C. § 1692(e). And third, a “debt collector may not use  
13 unfair or unconscionable means to collect or attempt to collect any debt.” 15 U.S.C. § 1692(f).  
14 Simply, designed to protect consumers from unscrupulous collectors, whether or not there  
15 exists a valid debt, the FDCPA broadly prohibits unfair or unconscionable collection methods,  
16 conduct which harasses, oppresses or abuses any debtor, and any false, deceptive or misleading  
17 statements, in connection with the collection of a debt.  
18

19 11. In enacting the FDCPA, the United States Congress found that “[t]here is  
20 abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by  
21 many debt collectors,” which “contribute to the number of personal bankruptcies, to marital  
22 instability, to the loss of jobs, and to invasions of individual privacy.” 15 U.S.C. § 1692(a).  
23 Congress additionally found existing laws and procedures for redressing debt collection injuries  
24 to be inadequate to protect consumers. 15 U.S.C. § 1692(b).  
25  
26  
27

12. Congress enacted the FDCPA to regulate the collection of consumer debts by debt collectors. The express purposes of the FDCPA are to “eliminate abusive debt collection practices by debt collectors, to insure that debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.” 15 U.S.C. § 1692(e).

## **V. FACTUAL ALLEGATIONS**

13. At all pertinent times hereto, Defendant was hired to collect a consumer credit card debt allegedly owed by Plaintiff, in connection to a First Premier Bank account.

14. For purpose of background, Defendant began placing repetitive and harassing telephone calls to Plaintiff on or around August of 2010.

15. At no point during the five (5) day period from the first communication, or any time since, has Defendant notified Plaintiff of her right to dispute the validity of the debt, or to demand verification thereof.

16. Defendant's harassing telephone calls were placed by its representatives "Andrew Brown" (phonetic), "Ms. Carrie" (phonetic), "Kim" (phonetic) and "Doug" (phonetic).

17. The calls derived from numbers including, but not limited to (866) 932-6780, (336) 308-0430 and (336) 790-3607. The undersigned has confirmed that these numbers belong to Defendant.

18. Defendant's representatives called Plaintiff multiple times per day, demanding payment of the alleged debt. Plaintiff has kept a non-exhaustive call log, detailing Defendant's harassing calls from October, 2010 until March, 2011, which is attached hereto as Exhibit "A".

1       19. On October 19, 2011 Defendant's representatives, including but not limited to  
2 "Doug", called Plaintiff at least four (4) times in a single day.  
3

4       20. At least two (2) of these calls on October 19, 2011 were before 8:00 am.  
5

6       21. Plaintiff was highly disturbed and inconvenienced by Defendant's early  
7 harassing calls.  
8

9       22. Accordingly, Plaintiff told Defendant's representative "Doug" to call back at a  
10 more appropriate time.  
11

12       23. At 8:01 am on October 19, 2011, "Doug" called Plaintiff again and said  
13 "remember me? It's Doug!"  
14

15       24. In the October 19, 2011 telephone conversation, "Doug" told Plaintiff that she  
16 had poor English.  
17

18       25. During another communication, Defendant's representative "Kim" called  
19 Plaintiff and told her that Defendant was going to take legal action against Plaintiff and garnish  
20 her wages.  
21

22       26. Plaintiff informed "Kim" that due to medical issues, she was on Social Security  
23 Disability, and therefore Defendant could not garnish her wages.  
24

25       27. "Kim" falsely told Plaintiff that because the alleged debt derives from a mail  
26 ordered item, Plaintiff has committed mail fraud, and that Plaintiff could therefore be arrested.  
27

28       28. Despite the threats made by "Kim", no civil or criminal legal action has been  
29 taken by Defendant against Plaintiff.  
30

31       29. In or around, December, 2010, Defendant's representatives began placing  
32 harassing telephone calls to both of Plaintiff's parents with the intent of embarrassing Plaintiff  
33 and coercing Plaintiff into making payment of the alleged debt.  
34

30. On or around December 1, 2010, a representative of Defendant telephoned Plaintiff's mother, and informed her that Plaintiff was "acting childish" and refusing to pay her debt.

31. On or around December 15, 2010, a representative of Defendant telephoned Plaintiff's father in order to collect Plaintiff's alleged debt.

32. During this call, Defendant's representative became rude and abrasive, and told Plaintiff's father that the calls will not cease, until Plaintiff pays the debt.

33. Defendant's actions in connection with the collection of Plaintiff's alleged debt were harassing, abusive, deceptive and unfair.

**VI. ALLEGATIONS**  
**VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT**

34. Plaintiff reincorporates by reference all of the preceding paragraphs.

35. Defendant's conduct violated the FDCPA in multiple ways, including but not limited to:

a) Contacting Plaintiff at an inconvenient time, in violation of 15 U.S.C. § 1692c(a)(1);

b) Contacting third parties in connection to the collection of Plaintiff's alleged debt, in violation of 15 U.S.C. § 1692c(c);

c) Harassing, oppressing or abusing Plaintiff in connection with the collection of a debt in violation of 15 U.S.C. § 1692d;

d) Using language the natural consequence of which was to abuse Plaintiff in violation of 15 U.S.C. § 1692d(2);

e) Causing Plaintiff's telephone to ring repeatedly or continuously with intent to annoy, abuse, or harass him, in violation of 15 U.S.C. § 1692d(5);

f) Making representations to Plaintiff that were misleading and deceptive, in violation of 15 U.S.C. § 1692e;

g) Making threats to take legal actions that were not intended to be taken, in violation of 15 U.S.C. § 1692e(5);

h) Making the false representation that Plaintiff has committed a crime, in violation of 15 U.S.C. § 1692e(7):

- i) Making representations to Plaintiff that were misleading and deceptive, in violation of 15 U.S.C. § 1692e(10);

j) Acting in a way that is unfair and unconscionable, in violation of 15 U.S.C. § 1692f;

k) Failing to notify Plaintiff of her right to dispute the debt or demand verification thereof within five (5) days of the initial communication, in violation of 15 U.S.C. § 1692g(a); and

l) Defendant acted in an otherwise deceptive, unfair and unconscionable manner and failing to comply with the FDCPA

## VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following.

- A. Actual damages;
  - B. Statutory damages;
  - C. Costs and reasonable attorney's fees; and,
  - D. For such other and further relief as may be just and proper.

**VIII. DEMAND FOR A JURY TRIAL**

DEMAND FOR A JURY TRIAL  
Plaintiff demands a trial by jury as to all issues triable.

**CERTIFICATION PURSUANT TO L.CIV.R.11.2**

11 TO L.CIV.R.11.2  
I hereby certify pursuant to Local Civil Rule 11.2 that this matter in controversy is not subject to any other action pending in any court, arbitration or administrative proceeding.

Date: 10/11/11

Respectfully submitted,

By: /s/ Amy Bennecoff (AB0891)  
AMY L. BENNECOFF  
Attorney for Plaintiff  
Kimmel & Silverman, P.C.  
1930 East Marlton Pike, Suite Q29  
Cherry Hill, New Jersey 08003  
Telephone: 856-429-8334

JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

HELEN BAKER

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Amy L. Bennecoff, Kimmel & Silverman, P.C., 1930 East Marlton Pike, Suite Q29, Cherry Hill, New Jersey 08003, 856-429-8334

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- |  |  |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)   |

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	PTF	DEF
<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 430 Banks and Banking	
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input checked="" type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 490 Cable/Sat TV	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 810 Selective Service	
<input type="checkbox"/> 190 Other Contract			<input type="checkbox"/> 850 Securities/Commodities/ Exchange	
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 890 Other Statutory Actions	
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	PROPERTY RIGHTS	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
			IMMIGRATION	FEDERAL TAX SUITS
			<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 740 Railway Labor Act
			<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	<input type="checkbox"/> 790 Other Labor Litigation
			<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
V. ORIGIN	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 890 Other Statutory Actions
	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 892 Economic Stabilization Act
	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters
	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 894 Energy Allocation Act
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 895 Freedom of Information Act
			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 740 Railway Labor Act
			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 790 Other Labor Litigation
			<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
			<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
				<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

## VI. CAUSE OF ACTION

(Place an "X" in One Box Only)

1 Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. 1692K  
Brief description of cause:  
Fair Debt Collection Practices Act

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

## DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/11/2011

SIGNATURE OF ATTORNEY OF RECORD

/s/ Amy L. Bennecoff

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE